

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

- v. -

STUART FINKELSTEIN,

Defendant.

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X

INDICTMENT

21 Cr (PGG) **21 CRIM 217**

COUNT ONE

(Mail Fraud)

The Grand Jury charges:

1. From at least in or about 2013, up to and including at least in or about 2019, in the Southern District of New York and elsewhere, STUART FINKELSTEIN, the defendant, willfully and knowingly, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, for the purpose of executing such scheme and artifice and attempting so to do, did place in a post office and authorized depository for mail matter, matters and things to be sent and delivered by the Postal Service, and did deposit and cause to be deposited matters and things to be sent and delivered by private and commercial interstate carriers, and did take and receive therefrom, such matters and things, and did cause to be delivered by mail and such carriers, according to

the directions thereon, and at the places at which they were directed to be delivered by the person to whom they were addressed, such matters and things, to wit, FINKELSTEIN filed or caused to be filed fraudulent lawsuits pursuant to the Americans with Disabilities Act (the "ADA") against various places of public accommodation in Florida and New York on behalf of individuals who neither authorized those lawsuits nor suffered any injuries under the ADA to confer standing to sue such places, in order to obtain cash payments for himself, and caused correspondence to be mailed from an attorney in New York, New York in furtherance of his fraudulent scheme.

(Title 18, United States Code, Sections 1341 and 2.)

COUNT TWO

(Aggravated Identity Theft)

The Grand Jury further charges:

2. From in or about 2013 up to and including in or about 2019 in the Southern District of New York and elsewhere, STUART FINKELSTEIN, the defendant, knowingly did transfer, possess, and use, without lawful authority, a means of identification of another person, during and in relation to a felony violation enumerated in Title 18, United States Code, Section 1028A(c), to wit, FINKELSTEIN possessed, used, and transferred the personal identification information of two individuals ("Victim-1" and "Victim-2") in connection with the mail fraud scheme charged in

Count One of this Indictment.

(Title 18, United States Code, Sections 1028A(a)(1),
1028A(b), and 2.)

COUNT THREE

(Obstruction of Justice)

The Grand Jury further charges:

3. In or about 2019, in the Southern District of New York and elsewhere, STUART FINKELSTEIN, the defendant, did corruptly obstruct, influence, and impede an official proceeding, and attempted to do so, to wit, FINKELSTEIN offered to return a portion of a settlement payment, and made materially false representations to the attorney of a restaurant FINKELSTEIN sued, in order to cause that attorney to withdraw a motion pending in the United States District Court for the Southern District of New York.

(Title 18, United States Code, Sections 1512(c)(2) and 2.)

COUNT FOUR

(False Declarations Before A Court)

The Grand Jury further charges:

4. On or about March 1, 2019, in the Southern District of New York and elsewhere, STUART FINKELSTEIN, the defendant, under oath and in a declaration, certificate, verification, and statement made under penalty of perjury pursuant to Title 28, United States Code, Section 1746, in a proceeding before and

ancillary to a court and grand jury of the United States, knowingly did make false material declarations, and made and used other information, including books, papers, documents, records, recordings and other materials knowing the same to contain false material declarations, to wit, FINKELSTEIN, in a declaration that he filed in the United States District Court for the Southern District of New York, stated under penalty of perjury that Victim-2 authorized a lawsuit filed under the ADA, when in truth and fact, Victim-2 had not authorized the lawsuit.

(Title 18, United States Code, Sections 1623(a) and 2.)

COUNT FIVE

(False Declarations Before A Court)

The Grand Jury further charges:

5. On or about April 18, 2019, in the Southern District of New York and elsewhere, STUART FINKELSTEIN, the defendant, under oath and in a declaration, certificate, verification, and statement made under penalty of perjury pursuant to Title 28, United States Code, Section 1746, in a proceeding before and ancillary to a court and grand jury of the United States, knowingly did make false material declarations, and made and used other information, including books, papers, documents, records, recordings and other materials knowing the same to contain false material declarations, to wit, FINKELSTEIN, in a declaration that he filed in the United States District Court

for the Southern District of New York, stated under penalty of perjury that Victim-2 authorized a lawsuit filed under the ADA, when in truth and fact, Victim-2 had not authorized the lawsuit.

(Title 18, United States Code, Sections 1623(a) and 2.)

FORFEITURE ALLEGATIONS

6. As a result of committing the offense alleged in Count One of this Indictment, STUART FINKELSTEIN, the defendant, shall forfeit to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28 United States Code, Section 2461(c), any and all property, real and personal, that constitutes or is derived from proceeds traceable to the commission of said offense, including but not limited to a sum of money in United States currency representing the amount of proceeds traceable to the commission of said offense.

7. As a result of committing the offense alleged in Count Three of this Indictment, STUART FINKELSTEIN, the defendant, shall forfeit to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28 United States Code, Section 2461(c), any and all property, real and personal, that constitutes or is derived from proceeds traceable to the commission of said offense, including but not limited to a sum of money in United States currency representing the amount of proceeds traceable to the commission of said offense.

Substitute Assets Provision

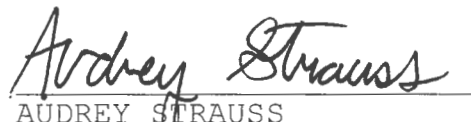
8. If any of the above-described forfeitable property, as a result of any act or omission of the defendant:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third person;
- c. has been placed beyond the jurisdiction of the Court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be subdivided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p) and Title 28, United States Code, Section 2461(c), to seek forfeiture of any other property of the defendant up to the value of the above forfeitable property.

(Title 18, United States Code, Section 981;
Title 21, United States Code, Section 853; and
Title 28, United States Code, Section 2461.)


FOREPERSON
United States Attorney


AUDREY STRAUSS
United States Attorney

Form No. USA-33s-274 (Ed. 9-25-58)

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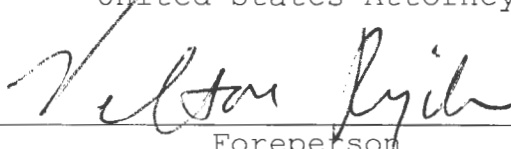
INDICTMENT

21 Cr. _____ (PGG)

(18 U.S.C. §§ 1341, 1028A(a)(1),
1028A(b), 1512(c)(2), 1623(a), and 2.)

AUDREY STRAUSS

United States Attorney



Foreperson
